

ADRIAN L. DUNN, SR.,)
)
Plaintiff,)
)
v.) No. 4:13-CV-1026-JAR
)
JAYNIE ZAKIBE,)
)
Defendant.)

Pursuant to 28 U.S.C. § 1915A, the "court shall review before docketing if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." The Court is to dismiss the complaint, or any portion, if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief.

An action is frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief can be granted if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

In reviewing a pro se complaint under § 1915A, the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 32 (1992).

The Complaint

At the outset, the Court finds that plaintiff's complaint does not comply with Local Rule 2.06(A), because it was not filed on a Court-provided form.¹ In addition, the complaint does not comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Rule 8(a) requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief, and . . . a demand for the relief sought." Rule 8(d) requires that "[e]ach allegation must be simple, concise, and direct." Rule 10(b) requires that "[a] party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances."² Plaintiff's complaint is a thirty-three-page photocopy of a motion

¹This Court's Local Rule 2.06(A) states, "All actions brought by pro se plaintiffs or petitioners should be filed on Court-provided forms. If an action is not filed on a Court-provided form, the Court . . . may order the pro se plaintiff or petitioner to file the action on a Court-provided form."

²Even pro se litigants are obligated to plead specific facts and must abide by the Federal Rules of Civil Procedure. *See U.S. v. Wilkes*, 20 F.3d 651, 653 (5th

to vacate that he filed with the United States Customs and Border Protection Agency in 2012. It does not contain a short and plain statement showing that he is entitled to relief. The allegations are not simple, concise, or direct, and the claims are not set forth in numbered paragraphs.

Because plaintiff is proceeding pro se, the Court will grant him time to file an amended complaint on a Court-provided form, as set forth below. Plaintiff is advised that the filing of an amended complaint will supersede the original complaint and will be the only complaint this Court reviews. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Because the Court is allowing plaintiff to amend his complaint, it will take no action as to the named defendant at this time.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint within thirty (30) days from the date of this Order. In the amended complaint,

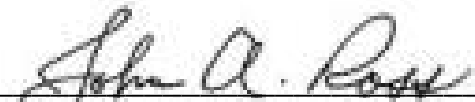
Cir. 1994); *Boswell v. Honorable Governor of Texas*, 138 F.Supp.2d 782, 785 (N.D. Texas 2000).

plaintiff shall complete in its entirety the court-provided form for filing a complaint pursuant to 42 U.S.C. § 1983.³

IT IS FURTHER ORDERED that the Clerk shall mail plaintiff a form for filing a complaint pursuant to 42 U.S.C. § 1983.

IT IS FURTHER ORDERED that plaintiff's failure to amend his complaint in accordance with this Court's instructions will result in the dismissal of this action, without prejudice.

Dated this 26th day of June, 2013.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE

³For his amended complaint, plaintiff shall use the Court-provided form for filing a complaint pursuant to 42 U.S.C. § 1983. The Court understands that plaintiff is suing a federal actor pursuant to *Bivens*, nevertheless, the action should be filed on the Court's form for filing a complaint pursuant to 42 U.S.C. § 1983.